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In re Application of
Schlessinger, et al.
Application Serial No.: 10/049,429
PCT No.: PCT/US00/23744
Intl. Filing Date: August 30, 2000
Priority Date: 30 August 1999
Attorney's Docket No.: 038602-1306
For: CRYSTAL STRUCTURES OF DOMAINS OF
RECEPTOR PROTEIN TYROSINE KINASES
AN THEIR LIGANDS

DECISION ON REQUEST
UNDER 37 CFR 1.497(d)

This is a decision in response to the "Renewed Petition under 37 CFR 1.497(d)" filed 08 September 2003, which is being treated as a renewed request under 37 CFR 1.497(b) to correct inventorship.

BACKGROUND

On 30 August 2000, applicant filed international application PCT/US00/23744 that claimed priority of an earlier provisional application filed in the United States on 30 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 March 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage expired at midnight on 30 March 2002.

On 12 February, 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by a copy of the international search report and the basic national fee of \$890.00 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/049,429.

On 16 April 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" indicating that applicant was required to file an oath or declaration and a surcharge fee. The notification set an extendable period for reply of two months from its mailing date in which to respond. A response was filed on 16 October 2002, along with an extension of time within the fourth month pursuant to 37 CFR 1.136(a). The response of 16 October 2002 was deficient and the United States Patent and Trademark Office mailed the "Notification of Defective Response" on 16 January 2003 and indicated that the oath or declaration was not proper as it was executed by inventors not listed in the international application. The "Notification of Defective Response" allowed a one month period for response. Extension of time were available pursuant to 37 CFR 1.136(a).

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 12 May 2003, applicants a petition and other evidentiary documents. The petition was dismissed by a decision mailed 08 July 2003. The

decision allowed a two-month period for reply, beginning from the decision mailing date. A response was filed on 08 September 2003.

DISCUSSION

A request under 37 CFR 1.497(d) to correct inventorship must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17(I), and (3) the written consent of the assignee, if an assignment has been executed by any of the original named inventors.

With respect to item (1), applicant has satisfied the requirement by providing statements from inventors Plotnikov, Zhang, or Kong that state that the error in inventorship in the international application occurred without deceptive intent.

With respect to item (2), the processing fee was paid on 07 May 2003.

Relative to item (3), applicant has provided satisfactory evidence of the assignee's consent to have inventors Plotnikov, Zhang, and Kong added.

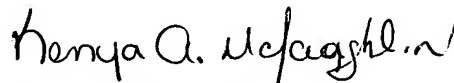
CONCLUSION

The renewed request under 37 CFR 1.497(d) is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the International Division to continue national stage processing of the present application.



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